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ARIZONA ATTORNEY GENERAL

July 9, 1952
Opin. No. 52-204

Mr. Robert F. Miller
Deputy County Attorney
Tucson, Arizona

Dear Mr. Miller:

This is in reply to your letter of July 1 wherein you request our opinion on several questions concerning Chapter 66 (H.B. 171) Laws 1952. Your first question is as follows:

"1. Under Section 2, relative to the county pound zone, what is the present status of this law on dogs outside that zone? Are they subject to any tax and if so how much? Does House Bill No. 171 repeal the previous dog law (Sec. 17-1607, A.C.A. 1939) relative to all dogs and set up a new law effecting only those within the county pound zone?"

It is our opinion that the new law does not repeal the previous dog law, Section 17-1607 ACA 1939, and therefore the old law is still operative as to dogs outside the county pound zone.

Your second question reads as follows:

"2. Under Section 4, what does the County Assessor do with the fees he collects, i.e. to what fund are they credited when turned over to the County Treasurer, if that be the proper procedure?"

Section 10-301 ACA 1939 provides:

"All taxes collected upon real and personal property of the several counties, and all public moneys arising from any source, or accruing under the provisions of law, to a county, shall be paid into the treasury of the proper county, and the county treasurer shall apportion and apply the

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same to the several special and general funds as provided by law."

It is our opinion that the fees collected by the county assessor should be turned over to the county treasurer. The new bill does not designate any special fund to which the fee should be credited, therefore, it is our opinion that they should be credited to the general fund.

Your third question is as follows:

"Does the 'humane officer' have the right to impound unlicensed dogs not running at large within the county pound zone, but maintained and kept on private property or tied thereon, notwithstanding the fact the owner may be in violation of the law?"

Section 3 of the act states that:

"Sec. 3. Unlawful acts. It is unlawful for a person to keep and maintain a dog within the county pound zone except as provided in this Act, or to refuse to permit the humane officer to inspect any dog under his care or control or the premises where such dog is kept."

Section 9 gives the penalty for failure of compliance with the act. Although it is unlawful for a person to maintain a dog without a license under the act, we find only two express provisions in the bill itself whereby the humane officer may impound a dog.

In Section 6 (a) it is stated that:

" * * * Any dog found running at large in the county-pound zone, except as otherwise provided by this Act, shall be taken into custody and impounded by the humane officer. * * * "

Section 8 states that:

"Sec. 8. General. When a dog is kept within the county pound zone without food, water or proper care, it is the duty of the humane officer to take it into custody."

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It is our opinion that the humane officer may only seize and impound dogs under the two provisions quoted above and that he may not enter onto private property and impound a dog unless the dog is maintained in violation of Section 8. Under Section 3, supra, it is unlawful for a person to refuse to permit the humane officer to inspect any dog.

We are enclosing a copy of an opinion rendered the Maricopa County Attorney on June 6 concerning some of the same questions you raised about the new dog law.

We trust that this sufficiently answers your questions.

Very truly yours,

FRED O. WILSON
Attorney General

ROBERT K. PARK
Assistant Attorney General

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